Ex 4

MEMORIAL

OF THE

CHEROKEE INDIANS RESIDING IN NORTH CAROLINA,

PRAYING

The payment of their claims, agreeably to the 8th and 12th articles of the treaty of 1835.

June 25, 1846.

Referred to the Committee on Indian Affairs, and ordered to be printed, in connexion with the resolutions of the legislature of North Carolina, on the files of the Senate, relating to the subject.

The memorial of the Cherokee Indians residing in North Carolina, to the Senate of the United States,

Showeth:

That when the negotiation of the treaty between the United States and the Cherokees was concluded, that portion of the said Cherokees who resided in North Carolina were neither parties to nor represented at the council that negotiated it, but subsequently were induced to enter into an agreement with the Cherokee chiefs, in lieu of a supplement to the treaty in their favor.

Your memorialists show that, before they would agree to do so, the North Carolina Cherokees specially and emphatically demanded to know of the commissioner on the part of the United States whether those Indians who might remain in North Carolina were to have, and be entitled, per head, to the same allowance as the Indians who might remove to the west; and being assured that they would, they became parties to the agreement, and sincerely co-operated with the United States government in carrying out the treaty—surrendered their homes, moved to other lands purchased, and submitted to the laws of the State.

Your memorialists, who have remained in North Carolina with the assent of the State, have frequently applied to the executive government to be paid accordingly, because that is the true meaning of the treaty; and in respect to other Cherokees who have remained in some of the other States, the treaty was so construed, and they have been accordingly paid; but the executive government have now reversed that decision upon the meaning of the treaty, and consequently your petitioners are not paid.

Your petitioners have annexed to this memorial the short statement of their claim, and proof in support of it, which was exhibited to the Commissioner of Indian Affairs; and he having rejected the same, under the late interpretation of the treaty, it is now respectfully submitted to your honor-

Ritchie & Heiss, print.

able body, in order that justice may be done to your petitioners by the action of Congress. For your petitioners do humbly submit, that if they are entitled to be paid by reason of the true interpretation of the said treaty, it is necessary to procure a declaratory act, or resolution, to reverse the decision referred to. And if such be not the correct interpretation of the treaty, then it is confidently submitted that good faith and honorable dealing by a great nation like the United States, in dealing with a poor and dependant remnant of an Indian tribe, will secure the passage of an act to pay your petitioners, and thereby to secure to them the consideration for which they stipulated, and which they did not doubt would be promptly discharged.

WM. H. THOMAS,
Attorney for the Cherokees east, and adopted Cherokee.

WASHINGTON CITY, *June* 16, 1846.

Claims of the Cherokee Indians who are remaining in the States of North Carolina, Tennessee, and Alabama, for removal and subsistence allowance under the provisions of the 8*th and* 12*th articles of the treaty of* 1835.

The 8th article provides that "such *persons* and *families* as, in the *opinion* of the *emigrating agent*, are capable of *removing* and *subsisting* themselves, *shall be permitted to do so*, and they shall be allowed, in full for all *claims* for the same, *twenty dollars* for each member of their families; and, *in lieu* of their one year's *rations*, they shall be paid the sum of *thirty-three dollars* and *thirty-three cents*, if they *prefer it*."

"ART. 12. Those *individuals* and *families* of the Cherokee nation that are *averse* to a *removal* to the Cherokee country west of the Mississippi, and *are desirous* to become *citizens* of the *States* where they *reside*, and such as are qualified to take care of themselves and their property, shall be entitled to *receive their due portion of all the personal benefits accruing under this treaty*, for their *claims*, *improvements*, and *per capita*, as soon as an appropriation is made for this treaty."

The 8th article limits the amount to be paid on claims for *removal* and *subsistence* to $53 33.

In the commencement of the execution of the treaty, the above articles were construed as authorizing the payment of $53 33 to such of the Cherokees as, in the opinion of the agent and Cherokee committee, were deemed capable of removing themselves, or of becoming citizens of the States. The Cherokees who are remaining in the State of Georgia while this construction of the treaty continued, received the amount due them for *removal* and *subsistence* allowance.

Application was subsequently made by the Cherokees remaining in the States of North Carolina, Tennessee, and Alabama, for the payment of the same amount as had been paid to their brethren remaining in the State of Georgia. Payment was refused, in consequence of a change of public officers, change of policy, and a different construction placed upon the provisions of the treaty. This makes it necessary, in order to ascertain which construction is right—the ambiguity of the provisions of the treaty having been established by the two constructions placed upon it—to have recourse to well established rules of interpretation.

1st. Will the language used in the treaty bear a construction which will authorize the payment to the Cherokees remaining in the other States the same sum as was paid to the Cherokees of Georgia?

The term "*due portion*," used in the 12th article, is a term used in dividing estates, and means their *exact dividend* of the proceeds of the sale of the common property. "*All the personal benefits*," *which follows*, limits their share to individual benefits, and exempts from distribution the *twelve hundred and sixty-four thousand dollars*, which, out of the proceeds of the sale of the common property, was *set apart* for the exclusive use of the *emigrants*, (under the 15th article.) "*For their claims, improvements, and per capita*" is used to describe of what the personal benefits consisted. Their *claims* were of two kinds—one for *spoliations* committed upon their property, and the other as a commutation of *removal* and *subsistence allowance*, in lieu of receiving these benefits in kind, which, by the 8th article, was limited to $53 33. The balance of the personal benefits was pay for improvements and per capita.

This construction of the provisions of the treaty is made more plain by having recourse to the original propositions of the government of the United States upon which the treaty is based.

On the 16th of March, 1835, propositions, acceptable to the government and to the Cherokee chiefs in favor of a treaty, were drawn up and signed at the city of Washington, which were to be submitted to the Cherokee people for their approval by the Rev. John F. Schermerhorn, a commissioner appointed by the President for that purpose. These propositions were accompanied by an address in favor of their acceptance from President Jackson. The 14th article of the propositions, which made provision for such as desired to remain east, provides that "*those individuals* and *families* of the *Cherokee nation* that *are averse to a removal to the Cherokee country west of the Mississippi*, and are desirous to become *citizens* of the *States* where they *reside*, and such as, in the *opinion* of the *agent*, are qualified to take care of themselves and their property, shall be entitled to receive their *due portion of all the personal benefits accruing under this treaty, for their claims, improvements, ferries, removal, and subsistence*." (See original, on file in the War office.)

The following instructions in reference to the class expected to remain east were issued by the Secretary of War to the commissioners appointed to negotiate the treaty:

"The great object being to insure the entire removal of the tribe, no reservations will be granted. If individuals are desirous of remaining, they must purchase residences for themselves."* (Senate document 120, page 102.)

After Mr. Schermerhorn arrived in the Cherokee country, to a council which was convened for the purpose of hearing the propositions of the government, and accompanying address from the President of the United States, he thus expounded the treaty:

"It makes provision (said he) for such *Cherokees as do not wish to remove west of the Mississippi*, and wish to *become citizens* of the *States*. They shall have paid to them here all that is due them for their *claims*, *improvements*, and *per capita allowance, removal*, and *subsistence;* but they must *purchase* their own *lands* like other *citizens*, and settle where they please, subjects of the *laws* of the *country* where they *live*." (See Senate document No. 120, page 459.)

---

* In addition to these instructions, the President, when the Rev. John F. Schermerhorn went to take leave of him, charged him as follows: "Go, and *do justice to the Indians, justice to yourself, and justice to your country*." (See Senate document 120, page 453.)

The Cherokees insisted upon reservations being granted in favor of such of their people as might desire to remain east, and finally refused to assent to the treaty unless a provision was added which secured to them their homes. This resulted in a clause being added to the 12th article, which granted *pre-emption rights to each head of a family* who remained east for 160 *acres of land*, to be located in the States of North Carolina, Tennessee, and Alabama, which was the only *change* made in the *original propositions* in reference to the class expected to remain east, as appears by the commissioner's journal of the negotiation that accompanied the treaty. (See Senate document No. 120, page 513.)

Previous to the conclusion of the treaty of 1835, the Cherokee government had ceased to exist, in consequence of the tribe having passed under the dominion of the authorities of the States. The portion of the tribe which resided within the chartered limits of the State of North Carolina, who lived on the lands granted to them by that State in the year 1783, being separated from the portion of the tribe that concluded the treaty, were not parties to it, nor represented at the council which negotiated it at New Echota, in the State of Georgia. But when it was forwarded to Washington city, for the examination of the President and approval of the Senate, they deemed it proper to employ an agent, who was an adopted Cherokee, to examine its provisions. He did not, however, arrive in Washington until after it had been submitted to the Senate. After examining its provisions, he was of opinion that the word *claims* in the 12th article was a term of such ambiguous meaning, that, to prevent the liability of a construction being placed upon it which would deprive those he represented of their proportion of the money arising from the sale of the common property, he deemed a supplemental article necessary to define the claims for spoliations, and removal and subsistence allowance, said to be provided for therein. The friends of the treaty, including the commissioner and chiefs who negotiated it, insisted that it was explained by the term "*all the personal benefits*," which preceded it, and there could be no danger of any construction being given to the treaty which would deprive the Cherokees who remained east of their *removal* and *subsistence* allowance; but to prevent the possibility of a construction being given so foreign from the intention of the parties, an agreement, signed by the chiefs who negotiated it, would answer the same purpose as desired to be accomplished by the supplement. After the agreement was drawn up, it was subjected to the examination of the Senators from the State of North Carolina—the Hon. W. P. Mangum and the Hon. Bedford Brown—who gave it as their opinion that it would answer the purpose desired. It was accepted in lieu of a supplement to the treaty. It bears date at the time it was subsequently signed by such of the chiefs as did not understand the English language, and reads as follows:

"The delegation, whose names are hereunto subscribed, for the Cherokees who have emigrated to, and are expected to emigrate to their new homes west of the Mississippi, and William H. Thomas, (an adopted Cherokee,) for the Cherokees belonging to, or which shall belong to the following *towns* and *settlements*: *Qualla*, *Alarka*, *Aquona*, *Stekosh*, and *Che-o-ih*, with their respective settlements, expected to *remain east*, of the second part:

"Article 1. It is admitted that the Cherokees above mentioned are entitled to *an equal share proportioned* to their *numbers* in all the *lands* belonging to the Cherokee nation of Indians. And, notwithstanding they have been deprived of their share of the annuities since the year of 1820, are nevertheless entitled to all sums in possession of the President of the United States for the use of, and annuities due from, the United States to the Cherokee nation of Indians; their proportionate share of which benefits was intended to be secured to them by the 12th article of the New Echota treaty, (which is quoted.)

"Article 3. It is further *agreed to*, that if any *construction* be given to any of the articles of the *New Echota treaty*, whereby the *Cherokees* belonging to, or which shall *belong to* said *towns* and *settlements*, shall be deprived of an *equal share* proportioned to their numbers in all the *sums arising* from a *sale* or *transfer* of the *common property*, mentioned in the *first article* of this *agreement*, payable to the Cherokee nation of Indians or people, we will request the *President* and *Senate* of the *United States*, and they are *hereby requested, to allow them such supplemental articles thereto* as shall remove such *improper constructions*, and enable them to *receive* their *equal proportioned share, as above mentioned.*

"Article 4. It is further understood that *one claim*, to which said *Cherokees desiring* to *remain are entitled* by the 12th article of the New Echota treaty, amounting to *fifty-three dollars* and *thirty-three cents each*, intended to place them on terms of equality with those that *chose to emigrate* in two years from the ratification of the above treaty, who are allowed that sum for *removal* and *subsistence* out of the money arising from the sale of the common property, shall *be placed by them* on interest in the *State Bank of North Carolina*, or some other *safe institution*, to furnish those desiring to emigrate to their new homes in the west with removal and subsistence, without which they might not be able to reach their friends. * * * * Should a *division* of the *lands* west of the Mississippi, belonging to the Cherokee nation as a *common property*, *take place, the above-mentioned Cherokees shall be entitled to have their share laid off for them.*

("Interpreted by Stan Watie.)
"William Rogers
Elias Boudinot
Johnson Rogers
George Welch
John Smith, Arkansas chief
James Rogers, Arkansas chief
John Gunter
Major Ridge

Wm. H. Thomas, (for the North Carolina Cherokees.)
James Foster
Long Shell Turtle
John Fields
James Fields
James Starr
Andrew Ross
Stan Watie."

Attest: **Joseph A. Foreman.**

On the 13th of October, 1837, the Senate passed a resolution calling on the Secretary of War for copies of papers relating to the Cherokee treaty of 1835. On the 12th of January, 1838, a report was made by the Indian office, in compliance with said resolution. What purported to be a copy of this agreement, so far from being a copy, one entire article was left out, without any mark being made to show that any part was not included. And what is still more remarkable is, that the article left out happened to be the explanation, by the chiefs who signed the treaty, of the 12th article of the treaty, in relation to the claims of the North Carolina Indians, being entitled to commutation for removal and subsistence allowance of $53 33 each. (As a proof of the correctness of this statement, allow me to refer you to Senate Doc. No. 120, page 616.) By leaving out that article it was made to appear, in the copies printed for Congress, that the North Carolina Indians not even claimed any commutation for removal and subsistence. There is no proof that the article was intentionally left out to defeat those claims, and it is possible that it was the result of accident; but the effect on the claims of the Indians was fully as injurious as if it had been intentional.

WASHINGTON CITY, *February* 1, 1840.

SIR: In reply to your inquiry, I have to state that I was one of the negotiating committee who, on the part of the Cherokees, entered into the treaty of December, 1835, with the government of the United States, and was also one of a sub-committee appointed by the first mentioned committee to examine said treaty with a view to ascertain whether it was such a one as ought to be signed by the committee of negotiation.

It was the understanding of the parties to this treaty, before it was signed, that there were many families and persons amongst the Cherokees so averse to a removal to the west, that it was deemed politic and just to make the terms of the treaty such as to give perfect freedom of choice to all to go or stay, as they might prefer, excepting such only as might be deemed incompetent to "take care of themselves and property."

This object was never lost sight of. The sub-committee most particularly insisted upon it; and not only upon the liberty of choice, but also upon securing to those who might prefer to remain a share of the money arising from the sale of the country, equal in every respect (the vested funds excepted) to that secured to the emigrants. I recollect very distinctly that when the 12th article of said treaty was under consideration, the sub-committee objected to it as not being couched in language sufficiently explicit to put it beyond all doubt that those desirous to become citizens of the United States were to receive their *removal and subsistence money*. The commissioner of the United States was appealed to on this particular point; and, in explanation, stated that the words "due portion of all the personal benefits accruing under this treaty" were so comprehensive as to preclude all idea of any interpretation by any one so as to deprive those choosing to remain of their removal and subsistence money. He asked, is this not a personal benefit? If so, it is secured to them beyond a doubt. With this explanation the sub-committee were satisfied, and reported the treaty thus explained to the committee of negotiation. And it was so explained by the commissioner to the people; and, with this explanation, signed and sealed. I have further to state that such a construction as this has been given to this article of the treaty, so far as myself and many others are concerned, who are now, and have always been residing on the east of the Mississippi. We have received our removal and subsistence money.

I am, respectfully, your friend,

WILLIAM ROGERS.

WILLIAM H. THOMAS, Esq.

WASHINGTON, *February* 3, 1840.

From an acquaintance of many years standing with Mr. Wm. Rogers, the writer of the foregoing letter, I have no hesitancy in saying I consider Mr. Rogers a man of integrity and veracity, and, therefore, any statement coming from him entitled to full credit.

WILSON LUMPKIN.

WASHINGTON, D. C., *April* 25, 1845.

DEAR SIR: The statement made in this letter by Mr. Wm. Rogers, as far as relates to my observations and expositions of the treaty to the Indians, is correct.

J. F. SCHERMERHORN.

WM. H. THOMAS.

WASHINGTON CITY, *January* 30, 1840.

SIR: In reply to your inquiries, I will state, unhesitatingly, that I was present when Mr. Schermerhorn, as the commissioner on behalf of the United States, submitted to the Cherokee Indians the propositions on which was based the treaty of the 29th December, 1835, (and had examined its provisions before it was submitted.) He distinctly informed them that such as desired to remain east, and become citizens of the States, would be entitled to receive all the personal benefits of the treaty, including their claims for removal and subsistence. This was at Red Clay council ground, in October, 1835.

After the same treaty was concluded, and submitted to the Senate of the United States for ratification in the spring of 1836, I well recollect that you applied to Mr. Schermerhorn in my presence to know if the 12th article of the treaty secured to the Cherokees who should remain east commutation for removal and subsistence allowance of $53 33 each, with all the other advantages of the treaty? and his answer was, that on that point there could not remain a doubt, as such was the intention of the parties to the treaty; and on your requesting my opinion on the same subject, I gave it in accordance with that of Mr. Schermerhorn, not then, or now, in the least doubting the accuracy of that opinion.

On obtaining the opinions above stated, you agreed to withhold a supplement to the treaty which you had previously prepared, and had deemed necessary, as an explanation for the protection of the interests of the Cherokees in North Carolina, several hundred of whom you at that time fully represented.

All I have stated I should not hesitate to verify in the most solemn form, if necessary.

I am, very respectfully, your obedient servant,

WM. Y. HANSELL,
Of Milledgeville, Georgia.

WILLIAM H. THOMAS, Esq.,
Of North Carolina.

WASHINGTON, *February* 3, 1840.

I have long been acquainted with Wm. Y. Hansell, esq., the writer of the foregoing statement or letter, and consider the statement of Mr. Hansell entitled to credit and respectful consideration.

WILSON LUMPKIN.

WASHINGTON, D. C., *April* 25, 1845.

SIR: I have examined the foregoing letter of Mr. Hansell, and the statements therein made, as far as relates to what I stated to you in reference to the Cherokee treaty, are true.

J. F. SCHERMERHORN.

WM. H. THOMAS.

WASHINGTON CITY, *April* 4, 1836.

SIR: My friend, Wm. H. Thomas, is now in this city from North Carolina, where he resides. He is returning from the north, and has stopped here for a short time to ascertain what is doing, or to be done, with regard to the *Indian treaty*. Mr. Thomas is the *agent*, I believe, legally and fairly constituted, for a *part* of the *Cherokee tribe* of *Indians*. I am informed from gentlemen of high respectability that *Mr. Thomas* has for some years past acted as *the agent* of a *part* of the *Cherokees*, and has been very *serviceable* to *them*.

He is entirely satisfied that a *treaty should* be *made* and concluded with the Indians, which shall *guaranty* to that *portion* of the tribe whose *agent he is* their *just* and *equal share* of the *proceeds* of the *sale*. I called, in company with Mr. Thomas, this day, to see you in the War office, but regret to learn you were absent from indisposition.

I have known Mr. Thomas eight or ten years, and have entire confidence in his honest and upright character.

Your humble servant, and friend,

JAMES GRAHAM,

Member of the House of Representatives from North Carolina.

Hon. LEWIS CASS,
Secretary of War.

May 8, 1846.—A true copy:

S. H. PORTER,
Chief Clerk Indian office.

WASHINGTON CITY, *April* 6, 1836.

SIR: Mr. Wm. H. Thomas, of Macon county, North Carolina, who will hand you this, is, as he informs me, acting as agent for a part of the Cherokee tribe of Indians, and visits this city on business connected with their affairs. I have advised Mr. Thomas to place before you certain papers and information which he informs me he has in his possession, *touching the treaty lately made with that tribe*.

I have not heretofore had the pleasure of a personal acquaintance with

Mr. T., but from the representation of others, in whom I have entire confidence, he is a gentleman of fair and respectable standing.

I have the honor to be, with much respect, &c.,

B. BROWN,
Member of the Senate from North Carolina.

Hon. LEWIS CASS.

May 9, 1846.—A true copy:

S. H. PORTER,
Chief Clerk Indian office.

The foregoing agreement and communications were submitted to the Commissioner of Indian Affairs by me on the 4th of July, 1836, accompanied with a request that he would obtain a decision by the Secretary of War on the claims of the North Carolina Indians, referred to in the agreement; in reply to which the following letter was received:

WAR DEPARTMENT,
Office Indian Affairs, July 19, 1836.

SIR: Your communication of the 4th instant has been laid before the Secretary of War, with the accompanying documents, relating to the interest of the Cherokees residing in the State of North Carolina in the treaty of December 29th, 1835.

I am instructed to inform you, that it is the impression of the department that the Cherokees in North Carolina have an interest, proportionate to their numbers, in all the stipulations of that treaty.

Very respectfully, your obedient servant,

C. A. HARRIS, *Commissioner.*

WILLIAM H. THOMAS, Esq.,
Scott's Creek, Haywood, North Carolina.

You will perceive in the foregoing decision that it was decided by Gov. Cass, who was at the head of the War Department at the time the treaty was concluded, that the North Carolina Cherokees were entitled, without removal, to all the pecuniary benefits of the treaty. The allowance now claimed formed a part of their personal benefits; consequently, were embraced in the decision as forming a portion of their interests in the stipulations of the treaty. It was upon that question the agreement and accompanying evidence, explanatory of the 12th article, were submitted; it was upon that question his opinion was asked and obtained. He did not base his decision in favor of the allowance upon any expectation that the North Carolina Indians would remove west with the tribe, because, in the agreement before him, on which the decision was based, it was stated that, by the terms of the treaty, if they would become subject to the laws of the State, they had the right to remain and become citizens; which they intended to do, and to purchase lands for a permanent residence. This construction of the treaty is further fortified by the subsequent practice that was established under it by the War Department, which was sanctioned by the accounting officers of the treasury, and by two boards of commissioners, acting under appointments from the President, as provided under the 17th article, whose decisions, by the terms of the treaty, were to be final. Under their decisions, the Cherokees now remaining in the State of Georgia were paid the same allowance as that now claimed for those remaining in the States of Alabama, Tennessee, and North Carolina. In opposition to this construction of the treaty, it is admitted that your predecessor at the head of the office of Indian affairs has proposed a change of construction, so as to make this allowance dependant upon removal west. It is also true that he refused payment on certificates issued by one board of commissioners—General John H. Eaton, ex-Secretary of War, and Edward B. Hubley—on claims of this description, in favor of J. K. Rogers, one of the signers to the treaty. An appeal was made to Congress for the passage of a resolution directing the payment of that and other suspended certificates. The resolution was passed, notwithstanding the great efforts of the Indian office to prevent its passage, and thereby sustain the new construction of the treaty; but the will of Congress was disregarded, and President Tyler vetoed the resolution. At the next session the resolution was returned, with the reasons of the Executive for refusing his assent. The resolution was again renewed, and with its renewal again commenced the efforts of the indefatigable Commissioner of Indian Affairs to defeat its passage. Notwithstanding all his efforts, Congress again passed the resolution by almost a unanimous vote of the Senate, and about two-thirds of the members of the House of Representatives.

In order to prevent the Indian office from again defeating the will of Congress, the resolution was amended so as to repeal so much of the act of 1834, which established the Indian office, as required all claims arising under Indian treaties to be first presented there for payment before paid at the treasury; and instead thereof, the Secretary of the Treasury was required to pay the certificates on presentation, by whom they were paid as required. Thus ended a contest between the Indian office and Congress, which cost the government, to calculate the time consumed in legislation, not less than two hundred thousand dollars, without any advantage whatever, except to test the power of the Indian office to sustain itself against the will of Congress. But since then some new evidence has come before Congress, which might have convinced your predecessor that he was wrong, and that Congress was right upon this question. The Cherokees now west of the Mississippi, the only persons to be in the least affected by the payment to the North Carolina Indians, and those in the other States, have come forward, and, as honest men should do, not only justified the payments which have been made to their brethren remaining in the States, but also justify payment to those that have not yet been paid; and, in order to aid them in obtaining their just rights, have furnished Congress with a strong and conclusive argument in their favor. In their memorial to the 28th Congress, which bears date the 17th of April, 1844, they say: "This claim for removal, we contend, was in each case an *individual claim;* * * because *each individual* who *chose* to *remain a citizen* of the *State* actually became a *creditor* to the *government* for *each member* of his *family* remaining with him. * * * * * *
It is easily ascertained what *number* of *Cherokees* there were *entitled* to *transportation* in *kind*, or *commutation* for *removal.* The number of persons of the Cherokee nation, according to the census of 1835, including *whites* and *blacks*, and *North Carolina Indians*, was *sixteen thousand seven hundred and forty-three*. Thus, at $20 per head, the United States would be entitled to a credit for $334,860 for *removal.*

"The same *arguments* which apply to the *data* for *removal*, apply precisely with the same force to the *data* for *subsistence.* The only difference is, that such as commuted for their own subsistence (as very many did) were entitled to *thirty-three dollars* and *thirty-three cents* for *each person* so subsisted. Upon this basis, therefore, the United States are entitled to a *credit* for *subsistence* for $558,044 17." (See House doc. No. 234, p. 6.)

I have shown how the parties to the treaty understood it, leaving no doubts as to its having been the understanding on the part of the Indians, as well as the commissioner of the United States, at the time the treaty was made, to allow those of the tribe who chose to remain east a commutation in money of $53 33 for each member of their families in *lieu* of *removal* and *subsistence* in *kind;* and not only did the Cherokees, at the time the treaty was concluded, so understand it, but even now, after their removal west, they entertain the same opinion. I contend, therefore, that the government, as trustee, being charged with the apportionment among the individuals of the tribe of the proceeds of the sale of the common property, has no right to withhold payment from those east of what is admitted to be a portion of their *dues under the treaty* by all the parties in interest. I contend, further, that the said trustee has no right to construe the treaty contrary to the known *understanding* of the *Indians*, by any rules of interpretation either as existing among civilized or uncivilized nations. Upon this last point, for the purpose of making more clear what would seem to be already indisputable, I will quote a few rules of interpretation, not as being new to you, but believing, in your present position, their reviewal may not be without its advantage:

"1st. In the interpretation of a treaty, or any other deed whatever, the question is, to discover what the *contracting parties have agreed upon;* to determine precisely, on any particular occasion, what has been *promised* and *accepted;* that is to say, not only what *one* of the parties *intended* to promise, but also what the *other* must *candidly* and *reasonably* have supposed to be *promised* to him; what has been sufficiently *declared* to him; and what must have *influenced* his *acceptance.* Every *deed*, therefore, and every *treaty*, must be *interpreted* by certain *fixed rules*, calculated to determine its *meaning* as *naturally understood* by the *parties* concerned at the *time* when the *deed* was *drawn up* and *accepted.*

"2d. When we evidently see what is the *intention* of the *contracting parties*, it is not *allowable* to wrest their *words* to a *contrary meaning.* The *intention*, sufficiently *known*, furnishes the true *matter* of the *convention*—what is *promised* and *accepted*, *demanded* and *granted.* A *violation* of the *treaty* is *rather* a *deviation* from *the intention*, which it sufficiently *manifests*, than from the *terms* in which it is *worded;* for the terms are *nothing* without the *intention*, by which it must be *dictated.*"—(See Vattel's Laws of Nations, pp. 247—'49.)

3d. The present Chief Justice of the Supreme Court of the United States, (Mr. Taney,) while he was Attorney General, gave an opinion upon the treaty made with the Choctaw Indians, in which he says: "In an *instrument* of this *sort*, made with *such persons* as the *Choctaws*, I do not think that *strict* and *technical* rules of *construction* should be applied to it. It ought to be expounded liberally, according to the intent." (See Attorney General's Opinions, p. 843.)

4th. The Supreme Court of the United States, in their decision in the case of Worcester *vs.* the State of Georgia, say, "The language used in *treaties* with *Indians* ought never to be *construed* to their *prejudice.*" "How the words of the treaty were *understood* by this *unlettered* people, (the Cherokees,) rather than their *actual meaning*, should form the rule of *construction.*" (6th Peters, page 576.)

Agreeably to the rules of construction established by the Supreme Court, the Cherokees remaining in the States of Alabama, Tennessee, and North Carolina would be entitled to the allowance for removal and subsistence, which heretofore has been withheld from them ; and there is but little doubt, if the same policy is persevered in, after waiting ten years for the payment of their dues, they will be under the necessity of setting up their claims to the lands contained in the grant of 1783, when the Supreme Court will have the power to do justice to the Indians agreeably to their own rules of construing Indian treaties. But such a course, for the adjustment of their claims and title to the lands, could not fail to prove injurious to the States of North Carolina and Tennessee, in consequence of their having made sale of the lands before the rights of the Indians were acquired. The grant comprehends a large extent of country—much larger than some of the eastern States—on which a population of industrious citizens now reside without a true knowledge of the uncertainty of their titles, as derived from the States. Valuable improvements have been made on the lands ; also some flourishing villages commenced. During the time the question of title would be pending, the price of lands must depreciate, and the improvements would be permitted to fall into decay. In case the court decided that the title of the lands, agreeably to the nature of the grant, had now inured to the exclusive benefit of the portion of the grantors and their descendants who have not parted with their title, and continued to reside thereon, the loss of the States, in compensating their citizens for the damages they would have sustained, and refunding their money with interest, could not fall short of five millions of dollars ; while on the part of the Indians it would be attended with comparatively no risk, because the executive branch of the government, in order to sustain the title claimed to have been received under the treaty of 1835, must show that the compensation promised under the treaty had been paid : so, let the court decide as it may, it must be in favor of giving the *Indians* either their *lands* or compensation for *them.* Under these circumstances, with regard to the States, the decision could not fail to be against their titles ; because, if, after showing the fee simple title in the Indians prior to the conclusion of the treaty of 1835, it is admitted that private individuals could be regarded as competent to treat, and that the fee passed under that instrument, it would be extremely difficult for these States to show how it had been conveyed back to them, or by what tenure they held the title to the lands. In North Carolina the purchasers would sustain but little injury, because very few of them have made payment in full to the State for the lands they purchased ; and it is quite probable that they will set up the plea of failure of consideration, the State having no title, against paying the balance due. It will then be necessary for the State to show that she is prepared to make a good title as soon as payment is made for the lands. If she fails to do this, as fail she must, it follows as a consequence that she will fail to recover payment on the bonds, and also must lose the lands. It was this question which, no doubt, aided in the passage, by the unanimous consent of the legislature of that State, of the resolution hereunto appended, requesting the aid of the delegation in Congress to use their influence to obtain the payment of the just claims of the Indians. In Tennessee the lands are paid for ; and, unsettling the title, as it must do, if suit is brought at the next term of the federal court, not for the interest claimed to have been conveyed under the treaty of 1835—that of the right of occupancy—but for the fee in the lands contained in the grant within that State, it is highly probable, before the suit is ended—which will likely require ten years--that the citizens of the State residing on the land will believe that it was the duty of the government to have paid the Indians, and thereby have settled their title, when it could be done without costing the United States any additional sum of money. And it is not certain that the reason for not doing it—making the removal of the Cherokees whom they permitted to remain, under the provisions of the treaty, a *condition* of *payment* of a part of their just claims, in opposition to the understanding of both parties to the treaty—will be entirely satisfactory to them for the losses they must sustain. The right to remove any portion of the Cherokees east, unless by their own consent, is not claimed to exist under the treaty. Is it just to attempt to accomplish it by indirect means?

Contrast the condition of the Cherokees east with that of their brethren west, and see if removal of the former at this time ought to receive further encouragement than is authorized by the agreement, a copy of which is in the foregoing, signed by the chiefs of the Cherokees. The documents furnished Congress this session, which emanated from the office of Indian affairs, furnish sufficient proof of the condition of the Cherokee Indians residing west of the Mississippi river. An army of whiskey shops are situated on the line which divides the lands of the Indians from those of the whites, that are amenable neither to the laws of the whites nor the Indians. Already they have commenced their work of *death* and war of *extermination* on the *Indians.* Under the influence of intoxicating liquors, aided by old feuds and animosities, the most horrid crimes are committed. The highway robber and the midnight assassin, in the confusion and anarchy that reign, are permitted, with impunity, to rob, murder, and plunder the best citizens in the nation. Before mens' wives and children they are shot down in cold blood; and even their children are not exempt from the merciless hand of the bandit. About eight hundred of the inoffensive and peaceable inhabitants have been driven from their homes, with their wives and their children, to seek protection among the whites in the State of Arkansas, and are now subsisted there at the expense of the government of the United States. Having shown what the condition of the Cherokees west is, in the land of promise, allow me to state the condition of their brethren remaining east, as proven by the most reliable evidence hereunto annexed. Qualla town being the principal settlement of Cherokees remaining in North Carolina, I shall confine my remarks to the present condition of the inhabitants of that town. After the conclusion of the treaty of 1835 with their brethren who resided in the State of Georgia, and after they had Governor Cass's decision "that they were entitled to an interest in proportion to their numbers in all the stipulations of the treaty," and had applied for and obtained the passage of a law by the legislature of the State of North Carolina, granting protection to them and such other Cherokees as might remain in the State, subject to her laws (May, 1838) after the time allowed the Cherokees in Georgia to emigrate, their chief purchased for them fifty-five thousand acres of land adjacent to the great Iron or Smoky mountain. One of its summits, known by the name of the Black mountain, is now, agreeably to Professor Mitchell's report, the highest mountain in the United States. This mountain, to which these Indians have an uninterrupted outlet, and the right of hunting reserved to them by the treaty of 1791, extends from east to west about one hundred and fifty miles, where it disappears in the valley of the Mississippi. For the most part this mountain is covered with a dense forest of walnut, mulberry, hickory, poplar, dogwood, elm, ash, chesnut, sugar maple, white pine, spruce pine, fir, and cedar trees, with an undergrowth of laurel, ivy, and the sweet shrub, so interwoven amid ravines, cliffs, and precipices, that it is almost inaccessible to any persons except Indians, and a few whites who have become acquainted with the passes in the mountain by hunting and attending to stock. Upon a portion of the summits of the mountain no timber grows, making it to resemble the rich pasturage of a small portion of the prairies of the west, where, instead of timber, grows, both summer and winter, grass and all the varieties of wild flowers. Their cattle subsist all the year without any other expense to their owners, except furnishing them with salt. On the south side of this mountain, which in width extends about thirty miles, rises the Oconalufta, which, with the Tuckasega river, forms one of the prongs of Tennessee. On that, and their tributary streams, the Qualla town Indians live. On these streams all the lands they have purchased are situated; and notwithstanding, after leaving the valley through which these streams flow, the lands are broken and mountainous, they are rich, and seem to be well adapted to all the purposes of grazing Blue and herdsgrass have been tried, and are found to grow well. The climate is one of the most salubrious in the United States. The country is well supplied with springs of crystal water that issue from the side and base of the mountain. In the mountain streams, trout, and other fish, found in the western waters, are in abundance, and wild fowl and game sufficient to furnish the sportsman with amusement. Here, in the land occupied by those Indians and their ancestors from time immemorial, where the sacred relics and the graves of their ancestors are distinguished by the monuments of rude piles of stone, those Cherkees yet delight to dwell. Regarding themselves as permanently settled, under the protection of the laws of North Carolina, provision having been made for the removal of such individuals as might become dissatisfied with the country east, and desired again to pursue the hunter life in the west, they did not expect or desire any more to be annoyed with enrolling agents; and, in anticipation of remaining permanently as a community on the lands they had purchased, and only occupy the lands which might be assigned them west as they chose to go, they have felled the timber, cleared fields, built good fences, have planted orchards, and made, in most instances, comfortable hewed log-houses to live in. Their females are no longer treated as slaves, but as equals. Their employment, like that of the wives of most of the pioneers, is principally confined to domestic pursuits. While the men are ploughing in the field, they are spinning, weaving, &c., manufacturing clothing and preparing food for their families. They have domestic animals such as are usually found among the whites—horses, cattle, hogs, sheep, &c. They cultivate Indian corn, wheat, rye, oats, beans, peas, Irish and sweet potatoes, cabbage, turnips, &c.; and they not only raise a plenty for themselves, but make a surplus which they sell to the whites engaged in working gold mines adjacent to the Indian settlement. They have acquired a knowledge of most of the mechanic arts known by their white neighbors, and not only do their own blacksmithing, stocking of guns, and coopering, but do much work of that description for the whites. They have become the most temperate people in the State, under the influence of a temperance society. They have learned to read the New Testament in their own language, which was translated by the unfortunate Boudinot, who was murdered in the Cherokee country west by the hands of assassins. They have their own preachers, who labor with their hands during the week, and preach and teach the children how to read and write on the Sabbath, and near one-fourth of the entire population understand these branches of education. Few settlements of the whites, in any of the States, can claim that a greater proportion of their population can read and write. In ten years, it appears by the certificate of the clerk, the grand jury of the county in which Qualla town is situated have not found a single indictment against any of the Indians. They have during that time performed public duty; worked on, and kept up the public roads which lead through their settlement. By the constitution and laws of the State they have the right to vote, but exercise it but seldom, lest they should be regarded as identified with one of the political parties, and thereby give offence to the other. Would not any reasonable man prefer residing in this the Indian's paradise east, to the country west. The improvement is in part owing to the effect of the temperance society, which removes the principal cause of so many tribes becoming extinct, and being adjacent to the whites, who heretofore have been their superiors in the arts. The portion of the tribe west, surrounded as they are by tribes less advanced in civilization, must, as a consequence, retrograde to a level with them, even if peace be restored. Instead, therefore, of doing anything to check the improvement of the Cherokees east, the government should encourage it, and furnish the aid promised to them by President Jefferson in 1809. By doing so, a system, which has been devised for their improvement, will stand the test of experience; and if successful in civilizing and christianizing these Indians, may it not be adopted by the government to civilize and christianize all the tribes under her guardian care, and thus preserve from extermination about three millions of the aborigines of this country? Is this not an object worthy of a great and magnanimous nation; and would not all christendom rejoice in the accomplishment of an object so desirable to every Christian and philanthropist?

Give the experiment a fair test, and then, if it don't succeed, and the Indians cease to improve and fall back into dissipation, those who ask this to be done will, if a country be laid off for them west, having superior advantages to the one they now live in, be ready to aid their removal to it, and use for the accomplishment of that object all the influence they may have. There is one advantage in adopting this plan, which, I presume, will not fully be understood by many persons unacquainted with Indian customs; that is, the system proposed not only with that tribe, but all others. As fast as a portion of the tribe become qualified to make useful citizens, include them in the family of American freemen, with equal rights and privileges, and leave them undisturbed. By this means, while the remainder of the tribe who are not qualified to become citizens must continue to remove in advance of the white population, they will carry with them, to whatever country in the far west they may be required to go, a recollection of their kindred and friends left in the land of their fathers, who have become merged in the population of the United States with the emigrants from every nation. The kind efforts of the government and religious societies to civilize the Indians will have an influence upon their happiness unknown to the former system; and more will be done by it to preserve peace on the frontiers than is usually accomplished by the large appropriations which are made for suppressing and preventing Indian hostilities. This being done, and by abandoning the practice of coercing Indians to remove, which has already cost the government more than fifty millions of dollars, the Indians on the frontier will always be the friends instead of the enemies of the government, which may prove of much advantage to us in time of war with any powerful nation.

With the highest respect, your obedient servant,

W. H. THOMAS.

Hon. Wm. Medill,
Commissioner of Indian Affairs.

March 28, 1846.

Athens, Tenn., *January* 11, 1839.

Whereas the Cherokees belonging to Oochella's band, in consequence of their meritorious services rendered the United States in assisting to capture the murderers of the two soldiers belonging to the 4th infantry, United States army, have been, by Colonel William S. Foster, commanding the United States troops in the Cherokee nation, in pursuance of instructions from General Winfield Scott, commanding eastern division United States army, permitted to remain in North Carolina, and to unite with the Oconalufta Indians; and whereas their crops and property of every description was, during last spring and summer, sold by agents appointed for that purpose, leaving them destitute of the means of subsistence, as well as working tools, &c.: the undersigned, therefore, adjudge them entitled to receive the money arising from the sale of their property, and all moneys due them under the provisions of the treaty of 29th December, 1835.

TH. W. WILSON,
JAMES LIDDELL,
Commissioners.

John C. Mullay,
Secretary to the U. S. Commissioners.

Cherokee Agency East,
February 28, 1838.

Sir: I have ascertained that there are in the Cherokee nation east about two hundred very old and infirm Indians, among whom are some lame, blind, &c., who believe themselves unable to remove west with the tribe, and wish to be permitted to remain, purchase land, settle, and reside in one neighborhood during their lives. Some of them wish that one or two of their young relatives may be suffered to remain with them.

I respectfully suggest to the department the propriety of granting these aged persons their request, as they in the course of nature cannot long remain here, and the young persons will emigrate as soon as their relatives die.

Very respectfully, your most obedient servant,

NAT. SMITH,
Superintendent Cherokee removals.

Hon. C. A. Harris,
Commissioner of Indian Affairs.

A true copy from the original.

T. R. CRUTTENDEN,
Clerk Indian Office.

Office of Indian Affairs,
March 24, 1838.

Sir: I have the honor to acknowledge the receipt of your letter of the 28th ultimo.

I have submitted the proposition in respect to the 200 old and infirm Cherokees being permitted to remain and become citizens, to the Secretary of War, and am directed to state, in reply, that no law forbidding such a course is known to this department; that if they wish to remain and are willing to submit to the State laws, and are able to purchase land, it is presumed that no objection would be made in any quarter to their doing so.

* * * * * * * *

Very, &c.,

C. A. HARRIS,
Commissioner.

General N. Smith,
Calhoun, Tennessee.

June 19, 1839.—A true copy:

T. R. CRUTTENDEN,
Clerk Indian Office.

MEMORIAL OF THE CHEROKEE INDIANS OF QUALLA TOWN, N. C.

To the commissioners and committee appointed to carry into effect the late treaty with the Cherokees of December 29th, 1835.

The undersigned memorialists, Cherokee Indians, respectfully represent to your honorable body that they are averse to removal to the Cherokee country west of the Mississippi; desire to continue citizens of, and subject to the laws of the State of North Carolina, where they reside; for which privileges they, as in duty bound, will ever pray. 6th April, 1837.

	Number in family.		Number in family.
Younaguska,	9	Tiyahah,	4
Long Blanket,	3	Siula, or Weaver,	7
Will-nota,	7	Tutlesta,	4
John Sonih,	6	Flying Squirrel,	5
Tom Canought,	6	Ooh-sowih,	4

	Number in family.		Number in family.
Cotutta,	8	Charley,	9
Aroneach,	6	Arche,	3
Tarapin, or Culasowah,	5	Chunowhinka,	4
Nickojack,	9	Skeikih,	4
Ooh Sowih,	6	Ahquottaga,	3
Chuheluh, or Fox,	6	Tutlestah,	3
Tetonneeska,	7	Tekinnih Soeeska,	7
Che-ye-nana,	7	Chinoque,	3
Little Jake,	6	Stekoih,	8
Ula-nah-hih,	5	Kahukih,	8
Waggula,	2	Tickoneeska,	8
Co-ult,	6	Scitta, or Connala,	6
Culasutta,	4	John Wayne,	7
Oh-la-yo-hih,	3	Tiyunohella,	11
Wallis,	5	Tutlestah, his son,	4
Sicatowih,	6	Tuniih,	4
Chigasutta,	8	Yonachuheyuh,	5
Big Jack,	4	Wah-he-yuh-ca-gees-ka,	4
John Davidson,	2	Nancy and family,	6
Chugoltoih,	6	Sanders, (an orphan,)	1
Ca-ne tutuh,	5	Standing Wolf,	9
Tutlestah,	5	Lowen,	3
Iyentuga,	8	Little George,	5
Little John,	6	Tiniih Sicatowih,	8
Old Jake, or Chugoltoih,	5	Tohead,	5
Total - - - - - - - - - -			333

State of North Carolina, Haywood county.

I, William Welch, of said county, on the attached certificate of citizens of this county, recommend the Cherokee Indians whose names appear on the attached memorial for the privileges therein requested. 22d of June, 1837.

WM. WELCH.

New Echota, September 30th, 1837.—The within memorial was taken up, considered, and admitted.

JOHNSON ROGERS,
President pro tem. of the committee.

LOVELY ROGERS,
Clerk to the committee.

COMMISSIONER'S OFFICE,
Athens, Tenn., December 5, 1838.

So far as we have authority under the late treaty, we approve of the above decision of the committee.

JAMES LIDDELL,
THOS. W. WILSON,
Commissioners.

JNO. C. MULLAY, *Secretary.*

CHEROKEE AGENCY EAST,
Office Supt. of Cherokee removals, Dec. 13, 1838.

I hereby certify that the Cherokees whose names appear on the foregoing memorial, belonging to the Qualla Town, situated in North Carolina, who were on the 13th of September, 1837, allowed citizenship by the Cherokee committee, and approved of by the United States commissioners on the 5th of December, 1838, acting under the authority of the 12th article of the Cherokee treaty of 29th December, 1835, were included in the last census of the Cherokee nation east, referred to in the provisions of the 15th article of said treaty, as appears on the census taken by the authority of the United States, and now on file in this office.

For General Nathaniel Smith, superintendent of Cherokee removals.

J. N. HETZEL, *Clerk.*

COMMISSIONERS' OFFICE,
Athens, Tenn., December 15, 1838.

Whereas it appears from the above certificate that the Cherokees residing in Qualla Town, North Carolina, are included in the census just completed, at the date of the treaty of 29th December, 1835, we are therefore of opinion that, agreeably to the provisions of the 15th article of the said treaty, they are entitled to a share of the per capita in proportion to their numbers.

JAMES LIDDELL,
THOMAS W. WILSON,
Commissioners.

JNO. C. MULLAY,
Secretary to Commissioners.

State of North Carolina.

The undersigned, citizens of the county of Haywood, hereby certify we have been acquainted with and lived neighbors to the Cherokee Indians whose names appear on the memorial attached, for a number of years; believe them fast improving in civilization, knowledge of the arts, and agriculture; for sobriety not surpassed by the same number of whites in any part of the State; qualified to make useful citizens; have heretofore lived in peace and friendship with the whites. 6th day of April, 1837.

Joseph Keener,
Henry Plemons,
James Nations,
Thos. L. Gaston,
George W. Hice,
William Sitton,
B. M. Enloe,
Green Felmoth,
A. R. Sawyer,
George Sherrill,

Alexander Crisp,
Jas. J. Cockerham,
Scroop Enloe,
Nathan Hyatt,
Samuel Sherrill, senr.
Samuel Sherrill, jr.
John Dillard,
J. B. Sherrill,
Samuel Gibson,
Joseph Stillwell,

Michael Francis,	George W. Hayes,
S. W. Gibson,	J. W. King,
E. G. Hyatt,	John Gibson,
Samuel Thompson,	B. Hyde,
Hiram Rich,	Isaac P. Harris.
Henry Carter,	

State of North Carolina, Haywood county.

The court of pleas and quarter sessions held for said county, upon the attached certificate and our own knowledge, recommend the Cherokee Indians whose names appear on the attached memorial for the privileges therein requested. In testimony whereof, we have ordered the clerk's certificate to be hereunto affixed, 22d June, 1837.

F. McGEE, [SEAL.]
JOS. KEENER, [SEAL.]
S. E. BYERS, [SEAL.]

State of North Carolina, Haywood county.

I, William Welch, clerk of the court of pleas and quarter sessions held for said county, do hereby certify that at June term, 1837, in [L. S.] open court, the attached memorial and certificate were read and examined by court, and the above order made out, to which is affixed my seal of office in accordance therewith certified. 22d June, 1837.

WM. WELCH, *Clerk.*

STATE OF NORTH CAROLINA, *Haywood county.*

SUPERIOR COURT OFFICE.

I, William Johnston, clerk of the superior court of law in and for the county of Haywood aforesaid, do certify, that on examination of the records it does not appear that any Indian residing in this State has been indicted in this court for the last ten years, during which time I have been the acting clerk of said court; and that *Qualla Town*, where a majority of the Cherokee Indians in this State are said to reside, is situated in this county.

[L. S.] In testimony whereof, I have hereunto set my hand, and affixed the seal of the court at office, this 12th day of October, A. D. 1843.

WM. JOHNSTON, *Clerk.*

I am well acquainted with Wm. Johnston, whose name is subscribed above, and he is a man of character, and his reputation is good, and very good.

JAMES GRAHAM.

MAY 26, 1846.

The undersigned, having had considerable acquaintance with the Qualla Town Cherokee Indians for the last two years, takes pleasure in saying that he believes them to be a sober, temperate, and industrious people, making considerable improvement in the domestic arts, and advancing in civilization; that a number of them are also a pious and religious people, and worthy of much respect and confidence.

E. F. SEVIER,
P. E., of Ashville district.
DAVID RING,
Missionary.

ECHOTA, *August* 22, 1843.

The undersigned, citizens of the counties of Haywood and Macon, and State of North Carolina, hereby certify that we have lived neighbors to the Qualla Town Cherokee Indians since 1838; we consider them fast improving in the knowledge of the arts and agriculture. As an evidence of the latter, they have not only raised a support for themselves, but during the past summer sold a considerable quantity to the whites, without which many of the white citizens would have been compelled to procure corn from a considerable distance. As a community they are temperate and industrious, and make useful citizens. They aid the whites in working the public roads that lead through their town. A large number of them have embraced the Christian religion, and are regarded as orderly members of the Baptist and Methodist societies. They have their own preachers, who, though they do not understand the English language, show by lives of piety and virtue that they, too, have embraced the true principles of the Christian religion, and are zealous to propagate them among their people. With a few exceptions, they belong to a temperance society formed many years ago on the Washingtonian plan. It is common for them to have public meetings, at which nearly all the men of the town assemble without any intoxicating drink, and without a single individual in the least degree being under the influence of spirits.

AUGUST 17, 1842.

Joseph Welch
Geo. N. Hughes
Christopher Nations
M. Coleman
A. T. Enloe
W. W. Enloe
S. W. Dowdle
J. M. Campbell
Woody Russell
William Martin
Solomon Messer
Elias Carroll
James F. Enloe
J. B. Sherrill
John Gipson
W. J. Sherrill
Wm. Russell
Samuel Conly
G. M. Cooper
John Sherrill
William A. Ferrington
J. W. Gibbs
J. Stilwell
D. G. Bryson
John Turpin
Henry F. Beck
A. M. Mingus
B. P. Turner
Wm. A. Coleman
T. Bird
Urial Cooper
A. Herren
David Adams
H. P. Adams
A. P. Adams
J. P. Sherrill
Robt. Collins
John Nations
George Hefley
John Cornnet
James Coe
J. M. Battle

J. T. Penland
J. S. Gibson
G. C. Martin
H. Martin
A. T. Hyatt
A. N. Cockerham
George Sherrill
B. M. Enloe
C. Mingus
C. B. Mingus
J. D. Sherrill
Jno. Mingus
Samuel Sherrill
J. H. Hunter
James H. Turpin
H. Battle
W. M. Enloe
Scroop Enloe
J. W. Hughs
C. F. Eitel
Samuel Gipson
Isaac Gipson
Ute Sherrill
Benj. Sherrill
Eb. Newton
Samuel Gibson
Watson Battle
Andrew Welch
I. P. Harriss
J. Keener
Henry Hardin
J. B. Carrell
Allen Fisher
Joseph Buchanan
Jesse Ashe
John Stiles
Wm. Davis
Israel Robison

I am acquainted with a number of the persons whose names are signed to this paper, and those whom I do know on the list have a good character.

JAMES GRAHAM.

Having, at the request of W. H. Thomas, esq., examined the list of names subscribed to the within paper, and being personally acquainted with a large number of the individuals whose names are subscribed, I can testify that they are generally men of respectability, and entitled to credit at home.

T. L. CLINGMAN.

OCTOBER 5, 1843.

QUALLA TOWN, IN NORTH CAROLINA.

The aggregate number was 669 in 1840, agreeably to the census of the Cherokees east, who, with a few exceptions, were full-blooded Cherokees. In the fall of 1844, a period of four years, the following information was obtained for the War Department. In the period of four years the total number of deaths, including those among the old and infirm who were permitted to remain east in consequence of their being unable to remove west, amounted to 53. The number of births in the same period was 166; which shows an increase of 113 upon the population of 669; making, as the aggregate number of the town, in the fall of 1844, 782, besides the remnant of the Catawba tribe now residing with them, not included in the estimate, which would increase the number to upwards of 800.

This information was desired by the Secretary of War, Hon. William Wilkins, to enable him to adopt measures to improve the condition of the North American Indians—who are now estimated by the Baptist Home Missionary Society at about 3,000,000—and thus prevent them from becoming extinct. Few men probably ever presided over that department more friendly to the Indians. It shows the state of improvement at the time the information was obtained, in the fall of 1844, as required by the questions propounded :

Total number of		blind, including one caused by old age	2
Do	do	deaf and dumb	3
Do	do	idiots and insane persons[*]	0
Do	do	persons engaged in agriculture	259
Do	do	blacksmiths' gun and silver smiths	13
Do	do	coopers who make pails, barrels, &c.	35
Do	do	persons who make looms and spinning wheels	17
Do	do	men who perform public duty by working upon public roads which lead through their town[†]	172
Do	do	females who have learned to card, spin, weave, and make their clothing	206
Do	do	males and females belonging to the temperance society[‡]	310
Do	do	Sabbath school teachers and scholars, all Cherokees	103
Do	do	males and females who have learned to read and write without the aid of any schools, except those kept by the chiefs upon the Sabbath	159

[Nearly one-fourth of the entire population can read and write.]

Total number of		capital offences committed from 1840 to 1844	0
Do	do	assaults and batteries	0
Do	do	habitual and confirmed drunkards	0

Game killed by them in the year 1844, 540 deer, 78 bears, 18 wolves, 2 panthers.

The plan adopted for the civilization of these Indians is different from any other adopted in the United States. Their customs and amusements are not interfered with, except so far as they are found to have an immoral tendency.

W. H. T.

Resolutions relating to the Cherokee Indians residing in North Carolina.

Resolved, That our Senators and Representatives in the Congress of the United States are hereby requested to use their influence in favor of obtaining a speedy settlement of the just claims of the Cherokee Indians residing in this State, belonging to the towns of Qualla and Buffalo, and of all other Indians who may demean themselves as peaceable and orderly citizens.

---

[*] This is probably owing to an ancient custom which prohibits marriages between members of the same clan. The nation is divided into seven clans, which most probably descended from seven families.

[†] This duty is performed under their own overseers.

[‡] This society, which is upon the tetotal abstinence plan, was commenced about the year 1830 by a distinguished chief of that town by the name of Yamaguska, who, under the influence of his adopted son, formed and established the society; to the influence of which the present condition of these Indians is attributable. Previous to the establishment of that society the males, as well as females, were fast sinking into a state of degradation under the influence of dissipation. They would, with few exceptions, get drunk, and engage in scenes of fighting, &c., disgraceful to human nature. Now, under the influence of public opinion, changed by the society, capital offences and assaults and batteries have ceased to exist with the causes which produced them. The Cherokees rarely, if ever, have been known to commit assaults and batteries when sober. It is then looked upon as an unmanly and disgraceful practice.

Resolved, *further*, That his excellency, the governor, be requested to send a copy of the foregoing resolution to our Senators and Representatives in Congress.

Read three times in general assembly, and ratified 9th January, 1845.

EDW. STANLY,
Speaker of the House of Commons.
BURGESS S. GAITHER,
Speaker of the Senate.

STATE OF NORTH CAROLINA,
Office of Secretary of State.

I, William Hill, secretary of state in and for the State of North Carolina, do hereby certify that the above is a true copy of resolutions passed at the last general assembly.

Given under my hand, this 14th day of January, 1845.

W. HILL, *Secretary.*